

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**In Re: CONALD WHITAKER, JR  
KLP**

**Case No. 3:13-BK-32537-**

**PAMELA WHITAKER FKA PAMELA WASHINGTON**

**Debtor. Chapter 13**

**CONALD WHITAKER, Jr.**

**PAMELA A. WHITAKER**

**Plaintiffs.**

**v.**

**APN: 3:16-AP-3268-KLP**

**SOUTH CENTRAL BANK, NA**

**JAMES W. DEBOER, TRUSTEE in his capacity as trustee only**

**Defendants.**

**ORDER ON MOTION FOR DEFAULT AND DEFAULT JUDGMENT**

**UPON MOTION BY**, Krumbein Consumer Legal Services, Inc., counsel for Debtor(s), and pursuant to FRBP 7055 says as follows:

**JURISDICTION, VENUE, CORE PROCEEDING**

- 1) This court has jurisdiction pursuant to 28 USC 1441.
- 2) This is the proper venue pursuant 28 USC 1391.
- 3) This is a core proceeding pursuant to 28 USC 157.

**PARTIES**

- 4) The movants are the Debtors in the above identified case, as defined by the Bankruptcy Code.
- 5) Respondents are creditors as defined by the Bankruptcy code.

**FACTS.**

- 6) On August 31, 2016, the Plaintiffs filed an adversary proceeding against defendants to determine the priority, extent and validity of 1 lien on the property known as 313 Wilmer Ave in the County of Henrico, VA, with a legal description of

ALL THAT CERTAIN LOT, PIECE OR PARCEL OF LAND, WITH IMPROVEMENTS THEREON AND APPURTENANCES THERETO BELONGING, LYING AND BEING IN THE COUNTY OF HENRICO, VIRGINIA, AND DESIGNATED AS LOT 16, BLOCK C, HUNTINGTON PLACE, AS SHOWN ON SUBDIVISION PLAT MADE BY J. TEMPLE WADDILL, CERTIFIED LAND SURVEYOR, DATED OCTOBER 9, 1950, RECORDED IN THE CLERK'S OFFICE, CIRCUIT COURT, HENRICO COUNTY, VIRGINIA, IN PLAT BOOK 23, PAGE 1, AS SAID LOTS HAVE BEEN MODIFIED AS SHOWN ON THAT CERTAIN PLAT ENTITLED "PLAT SHOWING A REARRANGEMENT OF LOTS IN HUNTINGTON PLACE," DATED JUNE 12, 2006, A COPY OF WHICH IS RECORDED IN THE CLERK'S OFFICE AS INSTRUMENT NUMBER 47850, TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION.

- 7) A summons was issued on September 1, 2016.
- 8) Service of the Summons and Complaint was made upon the defendants on September 1, 2016 pursuant to FRBP 7004.
- 9) James W. DeBoer is an individual, and were served by US Mail pursuant to FRBP 7004.
- 10) South Central Bank is a Stock corporation, and served by US Mail pursuant to FRBP 7004.
- 11) South Central Bank appears to be a National Bank and an "Insured Depository Institution", and served by Certified Mail addressed to an officer pursuant to FRBP 7004(h).
- 12) No answer or responsive pleading has been filed by either party on the Complaint, as noted in the supporting affidavit. See Plaintiffs' Exhibit "A".
- 13) Defendants are not The United States or an agency thereof.
- 14) Defendants are not in the military service of the United States.
- 15) Defendants are therefore in default. The facts are taken as true.
- 16) Default judgment is appropriate.

**APPLICABLE LAW**

- 17) Pursuant to Fed.R.Bankr.Proc. 7055(a), the clerk is empowered to enter a party's default when it has failed to plead or otherwise defend as provided by the Bankruptcy rules, and that fact is made to appear by affidavit or otherwise.
- 18) On default, the facts alleged are deemed admitted, and the court reviews the law as applied to the facts.
- 19) Plaintiff seeks to treat the second mortgages as unsecured, and upon discharge, to have them stripped or removed from the liens against the property.

**RELIEF ORDERED**

THEREFORE, Movants request that the court approve the foregoing motion for the reasons stated above is GRANTED, and it is ORDERED THAT

- a. Default and Default judgment for the plaintiffs against South Central Bank and James W. DeBoer, Trustee, is granted; and
- b. The second mortgage is deemed unsecured, and
- c. Upon completion of the Bankruptcy, this order, along with a discharge shall act as a release.

ENTERED: Dec 6 2016

/s/ Keith L. Phillips

Keith L. Phillips  
Judge, US Bankruptcy Court,  
Eastern District of Virginia  
Richmond Division

Entered on Docket: Dec 8 2016

I ask for this:

/s/ Jason M. Krumbein, Esq.  
Jason M. Krumbein, Esq. VSBN 43538  
Counsel for the Debtor(s) in Bankruptcy  
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**CERTIFICATE OF ENDORSEMENT PURSUANT TO LBR 9022-1**

I certify that all necessary parties have endorsed the foregoing order.

/s/ Jason M. Krumbein, Esq.  
Counsel for the Debtor(s) in Bankruptcy

SERVICE LIST

BY ECF:

Jason M. Krumbein, Esq., Counsel for Plaintiffs

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South Central Bank, NA

Marc B. Grayson, President

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